IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. 3595-M of 2005

Date of Decision : 24.04.2007

Mukesh Dhirubhai Ambani and another

... Petitioners

Versus

Suresh Pal.

... Respondent

CORAM : HON'BLE MR. JUSTICE S.D. ANAND

Present : Mr. R.S. Cheema, Senior Advocate
with S/Sh. Akshay Bhan and
Mr. K.S. Nalwa, Advocates,
for the petitioners.

Mr. Balraj Singh, Advocate,
for the respondent.

S.D. Anand, J.

The present petition has been preferred by the petitioners on the authority of the provisions of Section 482 of the Code of Criminal Procedure, for quashment of the complaint (case no. 665 dated 8.12.2003 titled Suresh Pal Vs. Deepak Kumar Goyal and others, under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code). Also applied for is the consequent invalidation of order dated 08.11.2004 (Annexure P-20) vide which the summoning of the petitioners - accused to stand trial for offences under Sections 420, 467, 468, 471 read with Section 120-B of the Indian Penal Code was ordered.

The allegation levelled by the complainant may be indicated as under in the first instance:-

The complainant, a permanent resident of Village Bodi, had

never obtained any mobile connection in his name or in the name of any other person, nor did he ever sign any document or deposited any amount for obtaining of a Reliance India Mobile connection. However, on 06.12.2003, he received a bill for Rs. 5177.42 in respect of mobile connection No. 01744-376456 purported to have been issued in his name. The bill contained a number of overseas calls. On receipt of the bill, the respondent-complainant approached the Commercial Manager, Reliance India at Kurukshetra to enquire into the matter. Thereupon, the Commercial Manager contacted S/Sh. Mukesh Ambani (Managing Director, Reliance India Mobile Kar Lo Duniya Muthi Mein) and Anil Ambani (Vice President, Partner, Reliance India Mobile Kar Lo Duniya Muthi Mein). However, S/Sh. Mukesh Ambani and Anil Ambani informed the complainant telephonically that he shall have to pay the bill or else he would be incarcerated. Apart from, the petitioners, a number of members of the public were also cheated on the basis of the publication of a news item in Dainik Bhaskar, a vernacular newspaper.

The plea raised by the respondent-complainant is that he had been cheated by the petitioners and the other non-petitioners-accused.

Insofar as the order dated 08.11.2004 is concerned, it deserves outright invalidation in view of the fact that it is cryptic in character. An order on point of summoning jeopardises the liberty of an individual. In that view of things, the Court directing issuance of process to a person is ordained by law to record the nature of the preliminary evidence on the basis whereof a finding is recorded that there is prima facie evidence to proceed against the accused. In the present case, the Presiding Officer did not do the needful. The impugned order consists of four paras. Para no.1

consists of the allegations. Para no.2 indicates that two CWs (CW1 and CW2) have been examined, besides the complainant himself. Para no.3 records that the counsel for the complainant had been heard and that the Presiding Officer had been through the case file. Thus, the only operative para is para no.4 of the impugned order which reads as under:-

> "4. After careful consideration of the arguments advanced by learned counsel for the complainant and the evidence brought on file, it is held that complainant has brought sufficient prima facie evidence on the file to summon the accused for the commission of offence under Section 420, 467, 468, 471 IPC read with Section 120-B IPC. Accordingly, accused be summoned for the commission of said offences for 25.1.2005 on filing PF, copy of Complaint etc."

As apparent from the above quoted part of the order, the Additional Chief Judicial Magistrate, Kurukshetra did not grant a self-contained and speaking order.

As would be evident from a perusal of the allegations in the complaint, the sum total thereof is that a telephone bill for Rs. 5177.42 came to be issued in the name of the respondent-complainant, though he never applied for a Reliance India Mobile connection nor did he ever have it and that there was no occasion for him to have made any call from any mobile connection.

In fact, the allegations in the complaint itself do not indicate that commission of any offence by the petitioners and the non-petitioners accused. The issuance of a wrong or a false bill would, at best give rise to a civil liability. If the respondent-complainant was inclined, he could have

initiated a civil cause against those who were responsible for billing him wrongly. The allegations, even in their totality, do not give rise to a criminal offence. The allowance of continuation of the proceedings on the basis of that complaint would be an abuse of process of law.

In the light of foregoing discussion, the impugned complaint (Annexure P-7), order dated 08.11.2004 (Annexure P-20) and all the proceedings thereunder shall stand quashed.

April 24, 2007 (S.D. ANAND)
vkd JUDGE